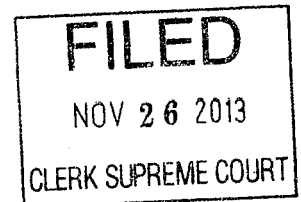


In The Supreme Court Of Iowa



| | | |
|-------------------------------------|---|--------------|
| In the Matter of Amendments |) | |
| to Division III of the Court |) | Order |
| Rules Regarding the Client |) | |
| Security Trust Fund |) | |

After consideration of written comments and the recommendation of the Board of Governors of the Iowa State Bar Association and the Client Security Commission, the supreme court has decided to amend chapters 39 and 40 of the court rules regarding the client security trust fund.

The bar association and the commission recommended increasing the reimbursement limits for claims against the client security trust fund. Both organizations also recommended increasing the special assessments payable to the fund by lawyers and making initial and special assessments uniform regardless of a lawyer's practice status. In addition, both organizations recommended increasing the threshold used to gauge the sufficiency of the fund each December, which determines whether a special assessment will be payable by lawyers during the following reporting year.

The recommendations of the bar association and the commission were submitted for public comment this past August. Comments were received from several different constituencies and groups. The court thanks the bar association and the commission for their study and recommendations and thanks the commenters for their contributions to its consideration of the issues.

The court acknowledges and supports the premise that providing security for clients from whom lawyers convert funds is a collective professional responsibility of all members of the bar. This premise underlies the court's retention of a uniform initial \$200 assessment for the fund and adoption of a

uniform rate of \$50 per year at which the initial \$200 assessment is paid. This premise also underlies the court's adoption of a new, regular annual assessment of \$50, payable in any year in which a special assessment is not payable, by all active lawyers who have already paid their initial \$200 assessment. However, the court finds that a uniform special assessment of \$140 regardless of practice status, as recommended by the bar association and the commission, would be too precipitous a change from the current special assessment of \$25 for lawyers not in full-time private practice. The court does find that the special assessment should be increased from \$100 to \$140 for lawyers in full-time private practice, and increased from \$25 to \$70 for lawyers in other practice statuses, including judges, government lawyers, corporate lawyers, and lawyers in part-time private practice. This conclusion balances the various concerns expressed in the comments about the proper allocation of the risk among the various groups of lawyers with the need to increase claim limits under the fund and the sufficiency threshold of the fund.

The increase in the special assessment and adoption of a new regular, annual assessment in years when a special assessment is not payable are necessary to fund coverage of potential claims at the higher reimbursement limits recommended by the bar association and the commission, which the court also adopts. An increase in the threshold used to calculate sufficiency of the fund each December also is necessary to fund coverage of potential claims at the higher reimbursement limits adopted. The report revealed that Iowa's current limits were below the norm of other jurisdictions. The bar association and the commission recommended raising the threshold from \$600,000 to \$1,200,000. The court has decided to raise the threshold to \$900,000, based on concerns that a threshold at a higher level could prompt special assessments more often than actually necessary to fund claims, and

unnecessarily increase the balance of the fund. The court cautions, however, that the probable lower fund balance associated with a lower sufficiency threshold makes the fund more sensitive to substantial claims, and the actual claims experience of the fund in coming years may trigger special assessments in any event.

The court also is conforming the special assessment provisions for part-time practitioners to actual practice of the client security commission. The net income qualification for part-time status is specifically established at less than \$10,000 from the practice of law in Iowa. The special assessment for part-time practitioners is set at \$70, the same special assessment amount now payable by government lawyers, corporate lawyers, and judges.

Some commenters suggested that lawyers in private practice be permitted to purchase a surety bond in lieu of contributing to the client security trust fund. The supreme court decided not to pursue this concept, based on its concern that addressing security of client monies by two different methods would increase program administration costs and dilute the fund.

The court adopts changes to chapters 39 and 40 of the court rules as attached to this order. A summary of the changes also is attached. The changes are effective as follows:

1. The amendment of rule 40.3 regarding claim reimbursement limits is effective for claims arising from lawyer conduct occurring on or after January 1, 2014.

2. The amendment of new rule 39.6(3), raising the threshold used to calculate sufficiency of the fund, is effective for the sufficiency calculation to be performed December 1, 2013.

3. The remainder of the amendments, including changes in special assessments, the rate at which the initial \$200 assessment is paid, and the

adoption of a new, regular annual assessment in years when a special assessment is not payable, are effective for lawyer reporting year 2014 and following years.

Dated this 26th day of November, 2013.

THE SUPREME COURT OF IOWA

By Mark S. Cady
Mark S. Cady, Chief Justice